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PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Applicant: BRITTA, Evans

Group Art Unit: 1626

Serial No.: 10/510393

Examiner: STOCKTON

Application Date: March 31, 2003

Conf No.: 2443

US Nat'l Entry

Date (if applicable): October 5, 2004

For: GROWTH HORMONE SECRETAGOGUES

Docket No.: X-15555

RESPONSE TO THE OFFICE ACTION MADE FINAL
SUBMITTED UNDER 37 C.F.R. §1.116

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action made final dated 12 October 2007, submitted herewith are a Terminal Disclaimer and a Notice of Appeal.

It is noted that as between two pending and commonly owned applications--each which have been subjected to a provisional obviousness-type double patenting rejection over the other--requires only one terminal disclaimer to be filed in the later allowed application. However, it is also noted that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. Quad Environmental Technologies Corp. v. Union Sanitary District, 20 USPQ2d. 1392 (Fed. Cir. 1991). Therefore, in order to advance the prosecution of the above captioned application, the undersigned submits a Terminal Disclaimer.

Please charge the appropriate fees and any additional fees which may be required by this or

Serial No. 10/510393

any other related paper, or credit any overpayment to Deposit Account No. 05-0840 in the name of Eli Lilly and Company.

Respectfully submitted,

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